



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/146295

PRELIMINARY RECITALS

Pursuant to a petition filed December 31, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on February 12, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's BadgerCare+ application was correctly denied because of income in excess of BadgerCare+ gross income limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Alma Lezama

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for BadgerCare+ in December 2012. On December 27, 2012 a notice was mailed to Petitioner that informed Petitioner that the application was denied because of income in excess of program income limits.

3. Petitioner is employed; working 80 hours biweekly at a salary of \$31.57 per hour or \$5051.20 per month. Though it is through a temporary service, Petitioner has been employed with current employer since August 15, 2012.
4. Petitioner's BadgerCare+ household size is 4; 2 children over age 19 are not included. Petitioner is most concerned about benefits for one of those older children as that child is disabled.

DISCUSSION

In order to determine financial eligibility for BadgerCare+ one must first determination of who must be in the BadgerCare+ test group. Child under age 19 and parents are included in the same BC+ test group. *BadgerCare+ Eligibility Handbook (BEH)*, §2.2.1. This makes Petitioner's BadgerCare+ test group size 4 people.

The income limit for adult BadgerCare+ eligibility is 200% of the Federal Poverty Level (FPL) which is \$3925.00 for a group of 4. See *BEH*, §§16.1 and 50.1, respectively. The gross earned and unearned income of all eligible individuals in the household over age 18 is counted. *BEH*, §16.4.

Children under age 19 are typically BadgerCare+ eligible but where income is over 200% of the FPL, a premium is due for the children in the group. *BEH*, §19.1.

Petitioner argues that because his work is temporary and earnings for 2012 should be averaged. BC+ eligibility is, however, based upon prospective earnings. The Department uses prospective budgeting to best predict income over the BC+ certification period. See *Process Help* publication at §16.4:

16.4.1 Prospective Budgeting Introduction

Prospective Budgeting is the process of estimating the household anticipated income during the [certification](#) period. At application, review or reported change in employment, the IM worker must calculate the amount of income the household will receive in the future months.

When prospectively budgeting an applicant's income, take into consideration the income already received by the household and any anticipated income the household and the agency are reasonably certain will be received during the certification period.

Use income received during the last 30 days as an indicator of the income that is and will be available to the household during the certification period unless that income does not accurately represent anticipated future earnings due to a change that has been indicated by customer.

At application or review, when budgeting income for [FS](#), use the income received in the 30 days prior to the interview date as long as that income accurately reflects the best estimate of the income for the future months.

When budgeting income for [BC](#) + only cases you will be use the gross monthly income verified by the previous 30 days gross or by the best information available.

The document also provides:

Note: Remember, do not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period. This includes a job ending or beginning, a change in hours or rate of pay or a change in the amount of overtime worked.

DHS Process Help publication at § 16.4.2.

Based on all of the above, I conclude that the agency correctly denied Petitioner's application has Petitioner was over the BadgerCare+ income limit for adults. If circumstances change Petitioner may certainly reapply.

CONCLUSIONS OF LAW

That the agency correctly denied Petitioner's application for BadgerCare+ as household income is in excess of program income limits.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

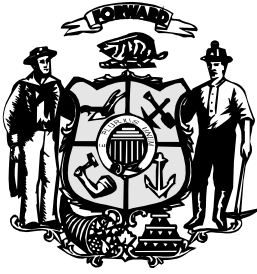
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of March, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 18, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability